IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.Rev.Pet.No. 197 of 2000()

CRA.64/1998 of ADDL.SESSIONS COURT, KOZHIKODE
CC.552/1993 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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REVN. PETITIONER: APPELLANT/ ACCUSED

NAZAR, S/O. AHMED KOYA,
VALIYAKATHU VEEDU,
PANNIYAMKARA AMSOM DESOM,
BEYPORE ROAD, KOZHIKODE.

BY ADV. SRI.P.K.IBRAHIM

RESPONDENT: RESPONDENT/ COMPLAINANT

THE STATE, REP.BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

tss

CRL.RP. 197/2000

ORDER ON CRL.MP. 1132/2000 IN CRL.RP. 197/2000

DISMISSED

07.09.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.197 of 2000

Dated this the 7th day of September, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 304(A) IPC and sentenced to undergo R.I. for three months and to pay a fine of Rs.1,000/- for the offence under Section 279 IPC and R.I. for one year and to pay a fine of Rs.1,000/- for the offence under Section 304(A) IPC. No separate sentence was awarded for the offence under Section 337 IPC.

2. The prosecution case is that on 12.1.1992, at about 9.00 a.m., the accused drove the tempo van bearing registration No.KRZ 5838 in a rash and negligent manner so as to endanger human life through Kozhikode-Kallai road from north to south and hit against three cyclists and one of the cyclists succumbed to the injuries sustained and rest of the cyclists sustained injuries.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 9 and Exts. P1 to P8.

4. PW1, one of the eye witnesses to the incident has testified as to the rash and negligent manner in which the vehicle was driven when he was standing in the bus stop and had a ring side view of the incident. He has stated that the vehicle overtook a bus and hit a cyclist and two other cyclists, who came from the opposite direction. But he has not identified the accused. PW3, one of the injured has also testified as to the incident. He has identified the accused. The suggestion that the cyclists came from a by-lane is denied. PW4, the doctor has proved Ext. P3 postmortem certificate. PW7, the owner of the vehicle has testified that it is the accused who drove the tempo van. PW9, the AMVI, has issued AMVI report which would show that the vehicle had no mechanical defect. It is also the evidence that the vehicle was driven through the wrong side. Ext. P1 scene mahazar would show that the incident took place at 65 cms. east from the western tar end. The road is having a width of 8.10 mtrs. The tempo van was proceeding towards the south. In the circumstances, I find no reason to deviate from the findings of the court below. The conviction is confirmed.

5. The counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in January 1992 and more than 15 years have elapsed; so far the accused was facing the ordeal of criminal proceedings. It is also submitted that the entire family is depending solely on his income for the lievelihood. In the circumstances, the sentence imposed for the offence under Section 304A IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.20,000/- to the legal representatives of the deceased. The revision petitioner is granted three months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-I, Kozhikode on 10.12.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

CRL.M.C.NO.4506/2002

ORDER

7th September 2007